



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/647,702	08/25/2003	Howard R. Longbrake	35457	2464
116	7590	05/13/2005	EXAMINER	
PEARNE & GORDON LLP 1801 EAST 9TH STREET SUITE 1200 CLEVELAND, OH 44114-3108			RACHUBA, MAURINA T	
			ART UNIT	PAPER NUMBER
			3723	

DATE MAILED: 05/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/647,702

Applicant(s)

LONGBRAKE, HOWARD R.

Examiner

M Rachuba

Art Unit

3723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 and 27-35 is/are pending in the application.
- 4a) Of the above claim(s) 3,6 and 9 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5-7, 10-20 and 27-33 is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4, 8 and 35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Claims 3, 6, 9, 21-26, 28, 31, and 33 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 24 August 2004.

### ***Claim Rejections - 35 USC § 103***

2. Claims 1, 2, 4, 8, and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Owen, 4,731,953 in view of Tschopp, 3,417,356, Towfigh, 4,791,873 or Rath, 5,598,996. Owen discloses a knife sharpener apparatus comprising a clamping mechanism operable to secure a knife blade; and at least one adjustable guide rod coupled to the clamping mechanism to adjust a sharpening angle of the knife sharpener apparatus, said guide rod being coupled to said clamping mechanism by a structure including an element to lock the rod in place. Owen does not disclose that the guide rod is infinitely adjustable or that the element bears nonuniformly against the rod. Either Tschopp, Towfigh or Rath, in devices requiring linear adjustment, teach providing that adjustment through an infinitely adjustable linear part that is locked in place by an element that bears nonuniformly against a side of the part. See Tschopp, figures 1 and 2 and their descriptions; Towfigh, see figures 1 and 2, their descriptions, and especially the description of the upper yoke and set screw 60; and Rath, figures 1 and 8 and their descriptions. It would have been obvious to one of ordinary skill in the art to have made the guide rod of Owen infinitely adjustable with an element that bears nonuniformly

Art Unit: 3723

against a side of the rod to lock it in position as taught by either Tschopp, Towfigh or Rath, to allow the rod to be positioned and finely adjusted anywhere within rod holder as desired, allowing the sharpener to be used to sharpen any knife edge at an infinite variety of bevel angles.

***Allowable Subject Matter***

3. Claims 5-7, 10-12, 13-20 and 27-33 are allowed.

***Response to Arguments***

4. Applicant's arguments, see page 7, paragraph 1, filed 14 February 2005, with respect to the rejection(s) of claim(s) 1, 2, 4, 8 and 35 under Owen alone have been fully considered and are persuasive. Therefore, the rejection has been withdrawn.

However, upon further consideration, a new ground(s) of rejection is made in view of Owen, 4,731,953 in view of Tschopp, 3,417,356, Towfigh, 4,791,873 or Rath, 5,598,996. This action is made non-final to allow applicant opportunity to fully respond to the new grounds of rejection.

***Conclusion***

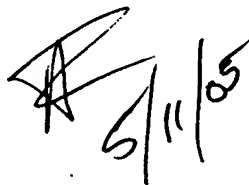
5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to M Rachuba whose telephone number is 571-272-4493. As of 15 November 2004, the examiner's new telephone number will be (571) 272-4493. The examiner can normally be reached on Monday-Thursday from 8:30 AM to 3:30 PM.

Art Unit: 3723

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Hail, can be reached on (703) 308-2687. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

M. Rachuba  
Primary Patent Examiner

Handwritten signature and date. The signature is a stylized 'R' followed by a vertical line. To the right of the signature is the date '5/11/05'.